4453

BILL NO. S-79-04-21

SPECIAL ORDINANCE NO. S-81-79

AN ORDINANCE approving an Agreement between City of Fort Wayne Board of Works and Southtown Mall Development Company for construction of Hanna Street - Tillman Road - Tillman Park Area Sanitary Sewer.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Agreement dated April 4, 1979, between the City of Fort Wayne, by and through its Mayor and the Board of Public Works and Southtown Mall Development Company, for monetary contribution in the amount of $51,400.00 by Southtown Mall Development Company for their share of area connection fees due and their participation in the construction costs of Hanna Street - Tillman Road - Tillman Park Sanitary Sewer and also, for the Southtown Mall Sanitary Sewer Lift Station Elimination, all as more particularly set forth in said agreement which is on file in the Office of the Board of Public Works and is by reference incorporated herein and made a part hereof, and is hereby in all things ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Councilman

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and ~~the City Plan Commission for recommendation~~) and ~~Public Hearing~~ to be held after due legal notice, ~~at the Council Chambers, City-County Building~~, Fort Wayne, Indiana, on _____, the _____ day of _____, 19__, at _____ o'clock _____ M., E.S.T.

DATE: 4-24-79

Charles W. Westermanjre
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Hinga, and duly adopted, placed on its passage.

PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BURNS	✓				
HINGA	✓				
HUNTER	✓				
MOSES	✓				
NUCKOLS	✓				
SCHMIDT, D.	✓				
SCHMIDT, V.	✓				
STIER	✓				
TALARICO	✓				

DATE: 5-22-79

Charles W. Westermanjre
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (~~RESOLUTION~~) No. S-81-79 on the 22nd day of May, 19 79.

ATTEST: (SEAL)

Charles W. Westermanjre
CITY CLERK

Winfield C. Moses JR.
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 23rd day of May, 19 79, at the hour of 11:00 o'clock A.M., E.S.T.

Charles W. Westermanjre
CITY CLERK

Approved and signed by me this 1st day of June, 19 79 at the hour of 9:00 o'clock A. M., E.S.T.

Robert E. Armstrong
MAYOR

Bill No. S-79-04-21

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee on City Utilities to whom was referred an Ordinance approving an Agreement between City of Fort Wayne Board of Works and Southtown Mall Development Company for construction of Hanna Street - Tillman Road - Tillman Park Area Sanitary Sewer

have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance DO PASS.

PAUL M. BURNS - CHAIRMAN

SAMUEL J. TALARICO - VICE CHAIRMAN

VIVIAN G. SCHMIDT

DONALD J. SCHMIDT

JAMES S. STIER

5-22-79
DATE

CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK

THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

board of public works

FORT WAYNE, IND.
FILED
CHARLES W. WESTERMAN
CITY CLERK

The Common Council
Fort Wayne, Indiana

Gentlemen and Mrs. Schmidt:

The Board of Public Works has awarded a Contract to Land Excavating in the amount of $163,852.50 for construction of the Southtown Mall Lift Station Elimination, under Sewer Resolution No. 305-78. Construction of this sewer and elimination of Southtown Mall Lift Station hopefully will provide relief for overflow condition existing at certain times during year at open ditch near John Street and U. S. #27.

Therefore, Board of Works respectfully requests "Prior Approval" so that construction may begin immediately to insure completion this Summer.

Special Ordinance for formal approval will be submitted in the very near future.

Sincerely,

BOARD OF PUBLIC WORKS

Henry P. Wehrenberg

HENRY P. WEHRENBERG, CHAIRMAN

CITY OF FORT WAYNE

Robert E. Armstrong

ROBERT E. ARMSTRONG, MAYOR

ep

APPROVED:

Virginia A. Schmidt

MEMBERS OF THE COMMON COUNCIL

ATTEST:

CHARLES W. WESTERMAN, CLERK

67-101-7 4/4/79

AGREEMENT FOR SEWER EXTENSION

This agreement made in triplicate, this 4th day of April, 1979, by and between Southtown Mall Development Company, an Indiana partnership, hereinafter referred to as "DEVELOPER", and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, hereinafter referred to as "CITY"

WITNESSETH:

WHEREAS, the DEVELOPER has proposed a building expansion program of the Southtown Mall Shopping Center which will require relocation, reconstruction and rededication of both the existing CITY owned Southtown sanitary pump station and certain publically dedicated sanitary sewers, and

WHEREAS, the DEVELOPER'S proposed building expansion program will generate sanitary sewage flows that would equal or exceed the designed flow capacity of the said Southtown Mall pump station, and

WHEREAS, the CITY, as a part of its master plan has proposed to construct a gravity sanitary sewer system to eliminate said Southtown sanitary pump station, and

WHEREAS, it is to the mutual benefit to both the CITY and to the DEVELOPER to construct a gravity sanitary sewer system which will provide unlimited sanitary sewer service, and

WHEREAS, the DEVELOPER has expressed a desire to coordinate its proposed building expansion program with the CITY'S proposed Master Plan gravity sanitary sewer extension, and

WHEREAS, there are area connection fees in the amount of $12,312.87 due the St. Mary's Interceptor; Res. 214 per document recorded 71-05984 for the 27.81 acre area as shown on Exhibit "A".

NOW, THEREFORE, in consideration of the foregoing, the parties hereto agree as follows:

1. The CITY shall immediately cause to be constructed a 24 inch gravity sanitary sewer to manhole which is designated as MH #12 on the attached Exhibit "A", and will have the same completed as soon as possible.
2. The CITY shall also cause the existing Southtown sanitary pump station to be removed, and shall restore the surface of said area by back filling and compacting the area. The CITY shall also plug off the force mains leading to and from said pump

station as a part of said removal. The CITY will coordinate the removal of the pump station with the construction of the new gravity sanitary sewer system so as to cause a minimum of interruption of sanitary sewer service to those customers utilizing the existing Southtown sanitary pump station. In the event that DEVELOPER is not ready for the CITY'S removal of the Southtown sanitary pump station and connection to the new gravity sanitary sewer by June 30, 1979, DEVELOPER shall undertake responsibility for the removal of the Southtown sanitary pump station and connection to the new gravity sanitary sewer, under the supervision of CITY personnel, and the CITY will pay to DEVELOPER the sum of Three Thousand Five Hundred Dollars ($3,500.00) for the removal of said pump station, upon completion of the removal.

3. The DEVELOPER shall, as a part of his expansion program, make all necessary interconnect to the CITY 24 inch gravity sanitary sewer to those existing sanitary sewer that now outfalls into the Southtown sanitary pump station. The DEVELOPER shall have this interconnect completed prior to the issuance of any final occupancy permit by the CITY on the proposed development site.

4. The DEVELOPER shall provide the CITY with one set of certified "As Built" set of plans for all the sanitary and the storm sewer systems which have to be relocated, reconstructed, etc. on the proposed development site.

5. The DEVELOPER shall obtain from the CITY a Sanitary Sewer Construction Permit to construct any sanitary sewer which will become a public sewer. These sewers shall be constructed in accordance with the CITY of Fort Wayne standards being subject to CITY inspection fees by the DEVELOPER.

6. The DEVELOPER shall prepare and grant to the CITY a 20 foot minimum width permanent easement centerlined over any sanitary sewer which is either relocated or reconstructed for this building expansion program. The easements shall be granted upon completion of construction of said sewer.

7. The DEVELOPER shall prepare for CITY'S execution, a description for the vacation of any existing sanitary sewer easements that will no longer be required at the completion of the building expansion program. The CITY will vacate all of said easements at the time DEVELOPER conveys the new easements to the CITY.

8. The DEVELOPER shall pay to CITY upon completion of the work described on Paragraph 1 hereof, a lump sum fee of $51,397.87 towards both the construction cost of the 24 inch gravity sanitary sewer and all area connection fees due for all areas outlined on Exhibit "A".

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT FOR SEWER EXTENSION in multiple counterparts as of the date and year first above written.

DEVELOPER:

SOUTHTOWN MALL DEVELOPMENT COMPANY

By _____
Melvin Simon, General Partner

CITY OF FORT WAYNE, INDIANA

By _____
Robert E. Armstrong, Mayor

BOARD OF PUBLIC WORKS

By _____
Henry P. Wehrenberg, Chairman

By _____
Ethel H. LaMar, Member

By _____
Max G. Scott, Member

ATTEST:

_____
Ursula Miller, Clerk

Approved as to form and legality:

_____
Associate City Attorney

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

The foregoing instrument was acknowledged before me this 19th day of March, 1979, by Melvin Simon, General Partner, on behalf of SOUTHTOWN MALL DEVELOPMENT COMPANY, an Indiana partnership.

WITNESS my hand and notarial seal this 19th day of March, 1979.

Barbara Jean Jones
BARBARA JEAN JONES, Notary Public

My commission expires:

9-16-82

My county of residence is:

Marion

STATE OF INDIANA)
)SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert E. Armstrong, Mayor; Henry P. Wehrenberg, Chairman of the Board of Public Works; Ethel H. LaMar and Max G. Scott, Members of the Board of Public Works, who acknowledged the execution of the foregoing agreement for sewer extension, as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 4th day of April, 1979.

Anne J. Fox
, Notary Public

My commission expires:

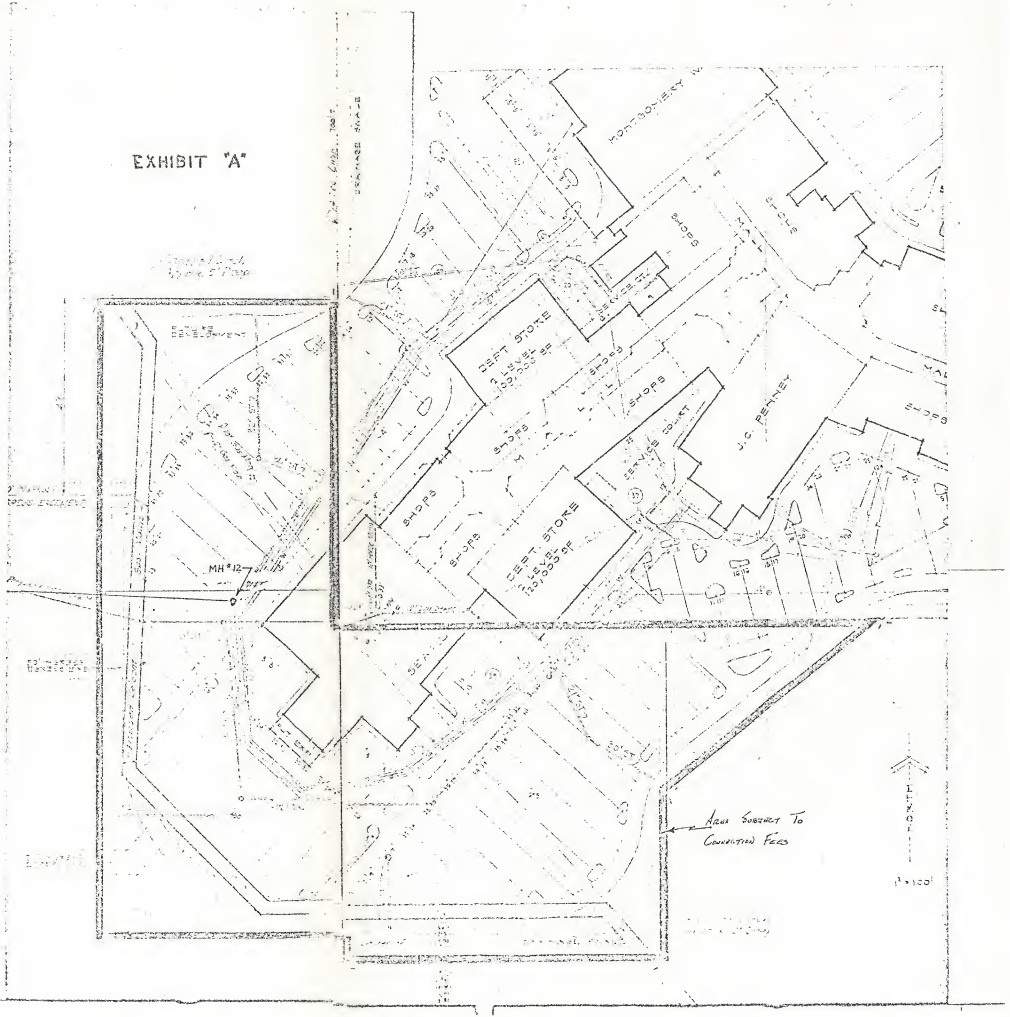
3/6/80

My county of residence is:

Allen

This instrument prepared by Philip R. Boller.

EXHIBIT "A"



MONTGOMERY W
SHOPS
SERVICE CT
DEPT STORE
1 LEVEL
100,000 SF
SHOPS
SERVICE COURT
J.C. PENNEY
SHOPS
DEPT. STORE
1 LEVEL
120,000 SF
MH #12
Area Subject To
Condition Fees

4453

TITLE OF ORDINANCE SPECIAL ORDINANCE - AGREEMENT FOR SEWER EXTENSION - HANNA ST./TILLMAN RD./ TILLMAN PARK AREA

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

S-79-04-21

SYNOPSIS OF ORDINANCE AGREEMENT FOR SEWER EXTENSION BETWEEN CITY OF FORT WAYNE BOARD OF WORKS AND SOUTHTOWN MALL DEVELOPMENT COMPANY TO ALLOW MONETARY CONTRIBUTION BY SOUTHTOWN MALL DEVELOPMENT COMPANY IN THE CONSTRUCTION OF HANNA STREET - TILLMAN ROAD - TILLMAN PARK SANITARY SEWER AND ALSO, FOR THE SOUTHTOWN MALL SANITARY SEWER LIFT STATION ELIMINATION.

(AGREEMENT FOR SEWER EXTENSION ATTACHED)

PRIOR APPROVAL ACQUIRED APRIL 3, 1979

EFFECT OF PASSAGE CONSTRUCTION OF ABOVE-DESCRIBED SEWER WITH SOUTHTOWN MALL DEVELOPMENT CO.'S MONETARY CONTRIBUTION

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) $51,400.00 TO BE PAID BY SOUTHTOWN MALL FOR THEIR SHARE OF AREA CONNECTION FEES DUE AND THEIR PARTICIPATION IN THE CONSTRUCTION COSTS.

ASSIGNED TO COMMITTEE

EP